

**From:** Barry King  
**To:** Microsoft ATR  
**Date:** 1/23/02 4:02pm  
**Subject:** Microsoft Settlement

TWMC:

The remedy is far too little, too late. Microsoft's lucrative practices of strongarming ISVs and OEMs are far less important for the future than what it plans to do with distributed component such as those it plans to base the company on using C# and .NET. These future products have not been addressed by the remedy, but are merely continuations of a code base which has been used by Microsoft to maintain a stranglehold over innovation and commerce, directly harming the U.S. public by providing shoddy, insecure software at an egregious total cost of ownership.

Because these initiatives have no name at this point, more emphasis must be placed on intellectual property principles and less on specific product. Intercompatibility is the principle which must be upheld, not niggling issues of bundling and product licensing of such-and-such version of Windows or Internet Explorer. Either Microsoft must be forced to use public standards of process intercommunication or it must be forced to show the exact behavior of the software it releases to developers. As defined in the remedy, a documented API is not broad enough for this issue. Complete APIs must be disclosed, including implementation and optimization issues.

However, enforcement of this will be impossible given the scale of the task. With hundreds of components being built in new ways and platforms than can be predicted in specific terms, there is no way that this remedy will address the monopolistic practices Microsoft WILL perform in the future. The remedy will be unenforceable given the role of the TC as outlined by the remedy, no matter how many consultants the TC can hire on Microsoft's dollar. Even if the TC does the job perfectly, it will not fix what is broken at Microsoft: the company's total lack of commitment to quality and responsibility.

Furthermore, by restricting the access to Microsoft source code to the TC (and, presumeably the TC's staff) no means are given by which open-source programmers can ensure their code has not been stolen by Microsoft in violation of the licensing agreements. The courts are not prepared to handle this sort of dispute, and no open-source (or for that matter, closed-source) competitor can afford to go against Microsoft in court. A way outside of the court system must be found to solve this problem, and this remedy is not it.

In the end, the court has two choices to properly settle this. Either convert substantial amounts of Microsoft's Intellectual Property to the

public domain as de-facto standards or force the company to rework its products to function well on competitor's operating systems, specifically those competing operating systems most used by the U.S. public, namely Linux and Mac OS.

Signed,

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